IN THE HIGH COURT OF BOMBAY AT GOA

MISC.CIVIL APPLICATION NO. 691 OF 2006

IN

WRIT PETITION NO. 288 OF 2005

MR. AGNELO FERNANDES, CANDOLIM, BARDEZ GOA. ....Applicant

Versus

PEDRO ANTONIO FERNANDES AND ORS., ...Respondents

Mr. S. K. Kakorker, Senior Advocate with Mr. Rama Rivonkar, Advocate for the Applicant.
Mr. Shivan Dessai, Amicus Curiae.
Mr. S. S. Kantak, AG with Ms. R. Chodankar, AGA for the Respondent nos. 3 and 4. (Orig. Respondent no. 1 and 2).
Mr. J. Vaz, Central Government Counsel.

Coram:- J. N. PATEL &
N. A. BRITTO, JJ.

Date:- 12th December, 2006

P.C.

Heard the learned Counsel for the parties except for Mr. Sonak, who is Advocate for the intervenor, who has sought leave.

2. This is an application filed by the respondent seeking permission for modification of our interim orders, so as to enable the applicant to let out rooms in the hotel Silver Sands. We have heard the learned Counsel for the parties and have gone through the documents placed before us including the affidavit filed by MOEF. Prima facie, we are of the view that the applicant-respondent can be permitted to let out the rooms of his hotel Silver Sands so as not to cause him recurring loss against the investment made by him on the condition that if this Court on the

conclusion of the hearing of the petition finds that the applicant-respondent no.4 has constructed ten shops which have been let out for commercial exploitation and the same is in violation of CRZ-III Regulations, the Court would be required to pass appropriate orders for restoration by directing the respondent to change the user of the ten shops from commercial to whatever is permitted under the aforesaid regulations. We, therefore, permit the applicant to let out rooms in his hotel Silver Sands on his furnishing a Bank guarantee in the sum of Rs.25,00,000/-, in favour of Registrar of this Court, which will be kept alive during the pendency of the petition i.e. until the petition is finally heard and disposed of with an undertaking that the applicant-respondent no.4 will not alienate on any count and create third party interest in respect of the commercial part of the construction that is the ten shops except letting it out on Leave and Licence/Lease (temporary).

3. The interim order stands modified accordingly. Application stands disposed accordingly.

J. N. PATEL, J.

N. A. BRITTO, J.

arp/*